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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Geographic Partitioning and)	WT Docket No. 96-148
Spectrum Disaggregation by)	
Commercial Mobile Radio)	
Services Licensees)	
Implementation of Section)	
257 of the Communications)	
Act -- Elimination of)	GN Docket No. 96-113
Market Entry Barriers)	

REPLY COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

Pursuant to Section 1.429 of the Commission's Rules, the Cellular Telecommunications Industry Association ("CTIA")¹ hereby submits its reply to the comments responding to the Further Notice of Proposed Rule Making in this proceeding.² CTIA supports the Commission's proposals to allow cellular carriers the same flexibility to partition license areas and disaggregate spectrum as the Commission's rules provide for broadband PCS licensees. In light of the

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers, including 48 of the 50 largest cellular, broadband personal communications services ("PCS"), enhanced specialized mobile radio, and mobile satellite services. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

² Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 96-148, GN Docket No. 96-113, FCC 96-474 (released December 20, 1996) ("Further Notice").

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competitive nature of the wireless industry, and in the interest of regulatory parity, such provisions should be established immediately.

CTIA's Comments on the Further Notice supported the Commission's proposals to expand geographic partitioning and spectrum disaggregation for the cellular service to the extent that such provisions mirror the rules adopted for broadband PCS. The record fully supports CTIA's position. A majority of commenters in this proceeding agree that partitioning and disaggregation rules similar to those rules established for broadband PCS should be established for the cellular service.³ In particular, regulatory parity requires that the Commission's modified partitioning and disaggregation rules for the cellular service (1) remove the five year build-out restriction on the cellular partitioning rule to bring it into conformance with the rules adopted for broadband PCS;⁴ (2) allow full spectrum disaggregation for the entire license term; (3) refrain from imposing any restrictions on the amount of spectrum that may be disaggregated or the area that may be partitioned;⁵ and

³ See Comments of BellSouth Corporation ("BellSouth"); Comments of SBC Communications, Inc.; Comments of Bell Atlantic Nynex Mobile, Inc. at 3; Comments of GTE Service Corp. at 2; Comments of AT&T Wireless Services, Inc. ("AT&T").

⁴ See Comments of BellSouth Corporation ("BellSouth") at 2.

⁵ See Comments of GTE at 3; Comments of BellSouth at 4; Comments of AT&T at 3-4.

(4) include flexible license terms and construction requirements.

Imposing more restrictive provisions on cellular carriers not only is inconsistent with the statutory goal of regulatory parity, but also in fact may inadvertently restrict the ability of PCS providers to partition and disaggregate. Commercial Mobile Radio Service ("CMRS") licensees are subject to the 45 MHz CMRS spectrum cap. Under the spectrum cap limitations, no broadband PCS, cellular, or SMR licensee regulated as CMRS may have an attributable interest in a total of more than 45 MHz of CMRS spectrum with significant overlap in a geographic area.⁶ Although the spectrum cap treats broadband PCS and cellular service under the same umbrella cap, inconsistent partitioning and disaggregation rules reemphasize the distinction between these CMRS services. To the extent that PCS licensees wish to enter into partitioning or disaggregation arrangements with cellular licensees in conformance with the spectrum cap, the PCS licensee will find itself constrained by the rules governing cellular partitioning and disaggregation. Hence, the broad flexibility that the PCS partitioning and disaggregation rules are intended to bring to PCS carriers would be

⁶ 47 C.F.R. § 20.6. For the purposes of the spectrum cap, CMRS is defined as broadband PCS, cellular, or SMR services. Id.

thwarted by inconsistent, more restrictive rules imposed on cellular licensees.

Finally, allowing similar flexibility for cellular will allow cellular licensees to react to market forces and demands for service. This, in turn, will encourage efficient use of the spectrum and the deployment of new services, both of which will fulfill the Commission's goal of increased competition.⁷

In light of the competitive environment of the wireless industry and recent regulatory changes that promote this environment,⁸ disaggregation and expanded partitioning rules should be adopted immediately. The adoption of "interim" rules would constitute unnecessary delay and would only hinder competition by shackling potential new entrants with additional administrative burdens.⁹

Additionally, regulatory parity supports the immediate application of full partitioning and disaggregation rules to cellular licensees. The Commission did not hesitate to adopt broad partitioning and disaggregation rules for

⁷ Further Notice at ¶ 114.

⁸ CTIA agrees that regulatory changes, such as the Commission's recent decision that cellular providers should have the flexibility to provide both fixed and mobile services, will spur the growth of new services and competitors. See Comments of CTIA at 3-5.

⁹ See also Comments of BellSouth at 3; Comments of GTE at 3.

broadband PCS, effective within sixty days of publication.¹⁰ There are no technical or policy justifications for delaying the adoption of similar rules for cellular service when in fact the rules governing PCS and other similar services are effective immediately.¹¹

¹⁰ See Further Notice at ¶ 117. The broadband PCS rules are effective 60 days after publication in the Federal Register, or on March 7, 1997.

¹¹ Recently, the Commission also adopted partitioning and disaggregation rules for the Wireless Communications Service. Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), Report and Order, GN Docket No. 96-228, FCC 97-50 (Released Feb. 19, 1997). These rules are effective immediately upon publication in the Federal Register.

CONCLUSION

For the reasons stated above, the Commission should make effective immediately expanded cellular geographic partitioning and spectrum disaggregation provisions similar to those adopted for broadband PCS.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I, Karen D. Simão, hereby certify that on this 21st day of June, 1996, copies of the foregoing Reply Comments of the Cellular Telecommunications Industry Association were served upon the parties listed below.

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